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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,984	12/21/2001	Fauziah B. Ariff	03292.101240.1	1517

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FITZPATRICK CELLA (AMEX)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3688

MAIL DATE	DELIVERY MODE
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04/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/027,984	ARIFF ET AL.	
	Examiner	Art Unit	
	Raquel Alvarez	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65 and 67-72 is/are pending in the application.
- 4a) Of the above claim(s) 72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 65, 67-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to communication filed on 10/31/2006.
2. Claims 65, 67-72 are presented for examination.

Election/Restrictions

3. Newly added claim 72 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: receiving in a first database a transaction file associated with a new consumer and requesting a consumer data for said new consumer from a second database and then receiving in first database said consumer data for said new consumer. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 45-46 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 3622

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 65, 67-72 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 4-6 and 22 of copending Application No. 10/010,947. Although the conflicting claims are not identical, they are not patentably distinct from each other because application# 10/010,947 further recites conducting a search across a plurality of retailers based on certain search criteria. Official notice is taken that it is old and well known to conduct a search among a plurality of retailers in order for the customers to receive a competitive price or merchandise among more than one retailers. It would have been obvious so a person of ordinary skill in the art at the time of Applicant's invention to have included conducting a search for said manufacturer across a plurality of retailers in order to obtain the above mentioned advantage.

6. Claims 65, 67-72 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15, 41, 55-57, 60 and 68 of copending Application No. 09/836,213. Although the conflicting claims are not identical, they are not patentably distinct from each other because application# 09/836,213 further recites earning points across retailers and manufacturers. Official notice is taken that it is old and well known

Art Unit: 3622

to allow customers to earn points or discounts from more than one entity because such a modification would motivate customers to use the system. It would have been obvious so a person of ordinary skill in the art at the time of Applicant's invention to have included earning points across a retailer and a manufacturer in order to obtain the above mentioned advantage.

Allowable Subject Matter

7. The present invention is directed to matching a retailer item identifier with a manufacturer item identifier in order to derive a standard identifier.

8. The closest prior art are:

9. Awadallah (7,127,414) teaches comparison shopping through a user interface using commonly used methods for context based advertisements retrieval and presentation. An example of such system is Google Adwords, wherein a number of links to retailer web sites are returned based on the classification of a search term entered into the Google search engine.

10. Deaton (6,292,786) teaches receiving product purchase information from a merchant at a POS. The product purchase information includes a UPC. The POS transmits the UPC to an UPC server in order to determine whether to offer an incentive to each customer.

11. Article titled, "UK Retailers' Loyal Customer Cards Wars Prove Costly" by Supermarket News teaches mailing loyal cards to consumers which contains targeted offers and menus.

Art Unit: 3622

12. Williams et al. (WO 00/33222) teaches presenting a consumer at a POS with a manufacturer incentive in order to incentivize the customer to said brands.
13. Blinn et. Al. (7,321,901) teaches manufacturers using a predefined schema to describe the features and specifications of their products in order to ensure uniformity of products specification data across manufacturers.
14. Christensen (6,035,280) teaches using product information data and consumer ID to determine the products and retailers from which the customer is buying products from.
15. With respect to independent claims 65, 70 and 72, the closest prior art alone or in combination fail to teach “”

Points Of Contact

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
Primary Examiner, Art Unit 3622

Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.
1/31/2008